



## Professional Independent Agents Association of Ohio, Inc.

Chairman Smith and Ranking Member Driehaus, my name is Jeff Smith, and I am the Director of Government Affairs and General Counsel for the Professional Independent Agents Association of Ohio (PIAA). I am providing this written testimony as an interested party to express our concerns with the proposed sales tax expansions to professional services in H.B. 64.

PIAA is the collective voice of 1,600 independent insurance agencies, representing more than 11,500 agents and their clients. Independent insurance agents are trusted risk management advisors to Ohio citizens and businesses and are responsible for servicing 82% of the commercial policies and 44% of personal policies in the state.

Independent agents offer many types of insurance – auto, health, home, life and business insurance – from many different companies to match consumers with the best choices for their particular needs. We advocate for legislative and regulatory policies that support a strong economy and competitive insurance marketplace for independent agents and their clients to do business.

The traditional model of compensation for the professional risk management advice and consultation that insurance agents provide has been commissions connected to the purchase of an insurance policy. Unlike the Governor's proposal in the 130<sup>th</sup> General Assembly, H.B. 64 does not appear to apply the sales tax to insurance commissions, but that could be open to debate based on the vague definitions of the professional services that would be subject to the sales tax.

With that being said, there are several tax changes proposed in the legislation that could negatively impact insurance agencies' financial outcomes and business operations. As more agencies are providing fee based services, they could potentially be subjected to the proposed sales tax expansion in H.B. 64.

The professional services that agents provide for a fee include a wide variety of services, such as: risk management, loss control, surety bonding, employee benefits, retirement plans, equity and asset management, HR consulting and other professional consulting services. While H.B. 64 does not state risk management services per se, the overly broad language in the sales tax expansion proposal crosses over to several of the other services in a confusing and vague manner.

### **Concerns Regarding the Lack of Clarity With the Tax Expansions**

The definitions of the newly proposed sales tax expansions are unclear and could make compliance with the laws very challenging. Specifically, we are concerned with the definition of "business management consulting" which means *any activity that provides advice and assistance to businesses on business issues*. The proposal lists 22 professional services

subject to the sales tax but does not limit it to those items by adding, "*business issues include, but is not limited to.*"

The definition of "business management consulting" could arguably include any professional service that an insurance agent provides for their client. Perhaps that was not the intention, but it causes great concern for a group of professionals that specialize in assessing and managing risk to have such uncertainty regarding their ability to comply with the tax code.

The other definitions for these new services like lobbying and public relations are equally as broad and vague in terms of what latitude the Department of Taxation will be afforded to interpret and enforce the law.

In addition to the fee based professional services agencies provide to their clients, in some cases the services are provided as a value added service. It is somewhat clear that the fee based services could be subject to the sales tax based on the definitions. However, it is less clear whether those services performed as value added services would create an issue as to whether the tax must be collected on that portion of the premiums or fee paid for the insurance products since it is an otherwise taxable service.

Compliance with the tax code is of utmost importance to all businesses in Ohio. The lack of clarity with these definitions creates a serious unknown as to which services are taxable. Any time a tax liability is subject to interpretation, it creates a potential for taxes being over or under paid, which is a liability no Ohio business wants.

Instead of spurring economic opportunities for insurance agents and their clients, these vague tax definitions could lead to disputes with the Department of Taxation's interpretation of taxable services. We share the concerns expressed by other professional organizations that this tax would be extremely difficult to clearly outline what is or is not subject to taxation and therefore it should be removed from the bill.

### **Potential Ramifications of Increasing Costs by as Much as 8.5%**

Increasing costs by as much as 8.5% could have a significant impact on independent insurance agencies and other Ohio businesses. As the professional advisors for 82% of the commercial insurance coverage in our state, independent agents have a great appreciation for the slow pace of recovery Ohio businesses are experiencing in coming out of the economic recession.

Many businesses are just beginning to see a slight economic improvement after many years of a seriously depressed economy. Imposing the new taxes in H.B. 64 on Ohio businesses at this time is very concerning.

Independent agencies survive on small margins and any contraction in those margins will require agencies to pause and evaluate expenses like employees, growth opportunities, professional development and other controllable expenses. While helpful, the personal income tax and small business tax reduction is not an impactful offset to the potential damage H.B. 64 might cause to our business model.

In addition to the increased costs for businesses and consumers by as much as 8.5%, the new tax could put Ohio professionals at a competitive disadvantage. Ohio would join a small number

of states in geographic regions nowhere near our state, which impose the sales tax on professional services. Ohio insurance agents would likely lose business to their colleagues in neighboring states that are not subject to additional costs of the sales tax.

We appreciate your consideration of our concerns with H.B. 64. Please contact me if you have questions or need additional information.